

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

UNITED STATES OF AMERICA §
§
§ CASE NUMBER 6:20-CR-00058-JDK
v. §
§
§
DARRELL LENARD BATES §

**ORDER ADOPTING REPORT AND RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE**

This criminal action was referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636(b)(3). On July 29, 2024, the Magistrate Judge conducted a hearing to revoke the supervised release of Defendant Darrell Lenard Bates and issued a Report and Recommendation finding that Defendant violated his conditions of supervised release by possessing and/or viewing media images displaying sexually explicit content and by failing to respond truthfully to questions by the probation officer. Docket No. 159. The Magistrate Judge therefore recommended that Defendant's supervised release be revoked and that he be sentenced to ten months' imprisonment with five years' supervised release to follow. *Id.* Defendant filed objections to the Report and Recommendation. Docket No. 160.

The Court reviews objected-to portions of the Magistrate Judge's Report and Recommendation de novo. *See Fed. R. Crim. P. 59 and 28 U.S.C. § 636(b)(1)* ("A judge of the court shall make a de novo determination of those portions of the report or

specified proposed findings and recommendations to which objection is made.”). The Court conducting a de novo review examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), superseded on other grounds by statute, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Defendant objects generally that the Magistrate Judge’s findings are legally insufficient, but does not specifically object to any of the Magistrate Judge’s factual findings on the evidence presented. Docket. No. 160. Upon a de novo review of the record, the Court finds that the evidence presented supports the Magistrate Judge’s findings. The uncontested evidence showed that Defendant refused to take a polygraph in December 2023. Gov’t. Ex. 7, at 07003. The testimony of the probation officer established that Defendant personally handed over his phone to the probation officer and that the phone included multiple pornographic sites in the Google search history. The government further provided video evidence to confirm that it was Defendant who was in fact searching the sites on the phone. Gov’t. Ex. 1. This evidence was supplemented by the government’s written summaries setting forth the pornographic websites accessed on the phone and the number of times the sites were accessed. Gov’t. Exs. 8, 9. The probation officer’s report also provided evidence that Defendant denied accessing the websites found on his phone. Gov’t. Ex. 8, at 08002. The Magistrate Judge found that Defendant did not provide a credible response contradicting the allegations that he accessed pornographic websites and failed to respond truthfully when asked whether he had viewed these websites at the hearing.

Considering the evidence de novo, the Court finds that Defendant Darrell Bates violated the terms of his supervised release by accessing and viewing pornographic material and by failing to respond truthfully to the probation officer regarding any viewing or accessing sexually explicit content. As such, Defendant has committed a Grade C violation. U.S.S.G. § 7B1.1(a). Upon a finding of a Grade C violation, the Court may revoke the term of supervision. U.S.S.G. § 7B1.3(a)(2). Considering Defendant's criminal history category of II, the Guideline imprisonment range for a Grade C violation is 4 to 10 months. U.S.S.G. § 7B1.4(a).

Based upon these guidelines, the Magistrate Judge recommended that Defendant be sentenced to ten months' imprisonment with five years' of supervised release to follow. As this recommendation is supported by the evidence and within the guidelines, the Court is satisfied with the recommendation.

The Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct. Therefore, the Court hereby adopts the Report of the United States Magistrate Judge as the findings and conclusions of this Court and **ORDERS** that Defendant Darrell Lenard Bates's supervised release be revoked and he be sentenced to ten months' imprisonment, with five years' supervised release to follow.

So ordered and signed on this

Aug 15, 2024



JEREMY D. KERNODEL
UNITED STATES DISTRICT JUDGE